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## THE CHICAGO CHARTER CONVENTION

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The Illinois Constitution of 1870 prohibited the State legislature from enacting local or special laws incorporating cities, towns, or villages, or changing or amending the charter of any town, city, or village. In 1872 an act was passed, providing for the government of all cities in the State of Illinois. In 1875 Chicago abandoned its special charter, and accepted the provisions of the general law of 1872. This law, with a series of amendments, has continued for a generation as the fundamental law of the city of Chicago. The very rapid growth of the city, however, in territory, in population, and in the complexity of its municipal interests has rendered the law of 1872 wholly inadequate for the present needs of the great metropolis. Widespread agitation in regard to this subject led to the initiation, in 1903, of a constitutional amendment authorizing the State legislature to enact special laws regarding the government of Chicago, providing that such laws should not go into effect until approved by the voters of Chicago. This amendment was adopted by the people of Illinois in November, 1904, after a vigorous campaign had been carried on in its favor by the citizens of Chicago. The legislature of 1905 met very shortly after the adoption of this act, so that a complete charter could not be presented to them. A bill providing for a new system of municipal

<sup>1</sup> Professor Merriam was a member of the committee of five on the outline and draft of the charter, and chairman of the committee on municipal taxation and revenue.

courts, and abolishing the old "justice shops," was prepared, however, by a citizens' committee; was presented to the legislature, and passed. A committee of the city council also drew up a proposed charter for the city, which was introduced into the State legislature, but of which only a small fragment was finally enacted. The term of the mayor was extended from two years to four; provisions were made enabling the city to secure the interest on its public deposits; and some other minor powers were contained in this rump charter. These acts were voted upon in November, 1905, and approved by the people. So far, however, as comprehensive legislation was concerned, very little had been accomplished, except the establishment of the new courts.

Meanwhile, the city council had passed an ordinance providing for a charter convention to draw up and present to the legislature a bill for a complete scheme of government for the city. Under the terms of this ordinance, the charter convention was to consist of seventy-four members. Fifteen members were to be appointed by the mayor of the city, fifteen by the governor of the State, fifteen by the State legislature, fifteen by the city council, and two each by the board of education, the public library board, the South Park board, the West Park board, the Lincoln Park board, the Sanitary District, and the Cook County board of commissioners. These members were duly selected by the several authorities interested and the convention met and organized in October, 1905. In view of the fact that the constitutionality of the charter amendment was in litigation, no important action was taken, however, until February, when a decision sustaining the amendment was handed down by the supreme court of the State. The work of the convention was then divided among fourteen committees composed of thirteen members each, with the exception of the committee on rules, procedure, and general plan which had twenty-three members. These committees were as follows: Municipal elections; municipal executive and departmental organization; municipal legislature; municipal courts; municipal taxation and revenue; municipal expenditures and accounting; relations of the municipality to other organizations and public authorities; public education; public utilities; penal, charitable and reformatory institutions; municipal parks and public grounds; rivers and harbors; rules, procedure, and general plan. These committees, with the exception of the law committee,

which acted in an advisory capacity, met and considered the special subjects referred to them. Some of these committees were frequently in session and thoroughly discussed their particular fields of municipal government. Others did little or nothing. All of their results were transmitted, however, to the committee on rules, procedure, and general plan (October, 1906). A sub-committee of five was then appointed to consider all of the reports submitted to it, and to draw up for the convention an outline of a charter. A skeleton charter was drawn up in this way and presented to the entire convention. This outline covered all important proposals made in regard to the content of the charter in alternative form. Elections, for example, was covered in the following form:

1. The elective city officers shall be nominated only by a petition of qualified voters.

First alternative to 1: Elective city officers shall be nominated under a system of direct primaries.

Second alternative to 1: Elective city officers shall be nominated as now prescribed by law.

2. The names of all the nominees for each office shall be printed on the ballot under the title of the office for which they are candidates.

3. The charter shall contain no provision for conferring the right of suffrage on women.

4. (a) The election of all city officers, including those for the municipal court, shall be held in the spring.

Alternative to *a*: The election of all city officers, except those for the municipal court, shall be held in the spring.

- (b) Spring elections for city officers shall be held on the first Tuesday after the first Monday in May.

5. Candidates and political committees shall be required to make sworn statements of receipts and expenditures of any campaign for nomination or election.

This outline was freely debated and an agreement reached on the main features of the scheme, early in January.

Having determined, in this way, the framework of the charter, a complete draft was made under the direction of the sub-committee on rules. Professor Freund, of the University of Chicago, was secured as the official draftsman, and, following the general lines agreed upon

by the convention, a careful draft was worked out. This was discussed at length in committee, and then presented to the charter convention for final debate and decision.

Early in the work of the convention, a charter digest had been prepared under the direction of Mr. A. R. Hatton, covering in a comparative way the principal points in the charters of American and European cities. A copy of this was placed in the hands of every member of the convention, and the material served a useful purpose during the debates. It should also be said that the convention had secured headquarters of its own with a permanent secretary and office force. A considerable collection of charters and other material of interest was placed at the headquarters, and every effort was made to secure all information that might assist the members of the convention in deciding the many difficult points which came before them. Stenographic reports of all committee meetings were made, while the debates of the convention were reported and printed from day to day.

The main features of the charter as prepared by the convention covered the subjects of consolidation, home rule, and revenue. In order to make clear the consolidation features of the charter, it should be stated that the government of Chicago consists of the city corporate, a board of education, a public library board, five park boards, the Sanitary District, and Cook County. Each of these bodies has taxing and governing power of its own. The members of the board of education and the public library board are appointed by the mayor; the West and Lincoln Park boards by the governor; the South Park board by the judges of the circuit court of Cook County; while the Sanitary District and Cook County boards are elective. Although Cook County and the Sanitary District lie almost entirely within the limits of Chicago, yet under the terms of the constitutional amendment they could not be consolidated and were, therefore, left out of consideration. The remaining taxing and governing bodies were consolidated with the city government; and the control of their finances was placed in the hands of the city council and the mayor, who would then naturally become responsible for their policy. The appointment of all boards was vested in the mayor.

The second important feature of the charter was the granting of broad powers of local government to the city of Chicago. For many

years the city had suffered from lack of local authority. In its first session, the convention had indicated its desire to secure a "comprehensive, simple, and elastic charter for the city of Chicago, granting to the city the largest practicable measure of local home rule, subject only to such general statutory safeguards and restrictions as may seem necessary to protect the general interests of the State as distinguished from the local interests of the municipality." The distinction between the municipal charter and the municipal code to be enacted under that charter, it had been insisted, should also be constantly borne in mind, and also that a municipal charter should be a grant of broad powers and definite limitations under which municipal codes and the methods and agencies of municipal government could be constantly adapted to meet the changing needs and wishes of the city. In pursuance of this purpose, the charter convention agreed upon the following section:

"The legislative power of the city shall extend to all matters of local legislation and municipal government which can be constitutionally delegated to it by the legislature, subject to the provisions of this charter and to all general laws of the State that are not modified or superseded by this charter, it being the intent hereof that the specifications of particular powers by any other provision of this charter shall never be construed as impairing the effect of the general grant of powers of local government hereby bestowed; but no taxes shall be imposed or levied except as hereinafter authorized."

But the home rule provisions of the charter were not confined to any one of its articles. The act was drawn in a liberal spirit and broad grants of power were scattered through the document.

The city was given a grant of police power, as follows:

"9 1. The police power of the city shall extend to the prevention of crime, the preservation and promotion of local peace, safety, health, morals, order and comfort, and to the prevention of fraud and extortion within the community, by measures of regulation, licensing, requirement of bonds, examination, inspection, registration, restraint and prohibition, as well as by establishment of municipal services."

It was also provided that the regulation by State law of a matter within the police power of the city should not prevent the council from making additional regulations on the same subject, if they did not

conflict with State law. An example of this would be found in tenement house regulation.

Under Public Education (art. xix) it was declared that:

"19 26. The specification of the powers herein granted is not to be construed as exclusive, but the board of education shall exercise all powers that may be requisite or appropriate for the maintenance and fullest development of an efficient public school system."

Under Finance (art. xi) the council was authorized to appropriate money for any corporate purpose; and this was defined as including "any legitimate object of municipal interest or activity not contrary to the provisions and limitations of this charter, for which the legislature has power to authorize the expenditure of city funds or the exercise of the power of local taxation." (Section 1.)

Under Corporate Powers (art. viii) the scope of the city's power of action was greatly extended.

Art. viii, sec. 20, provided that:

"8 20. Municipal services may be performed and municipal works carried out either through contracts entered into for that purpose or by the city directly by means of its own material and of labor employed by it."

Under Public Utilities (art. xvi) the city was authorized to own and operate, or to regulate and require adequate publicity regarding all public utilities.

The city was given broad power to provide for aid, relief and correction (art. x), including authority to care for the indigent, to maintain almshouses, municipal lodging houses and farms for the unemployed, free employment bureaus, crèches, dispensaries, hospitals, institutions for juvenile delinquents and dependents, and workhouses or jails; and to coöperate with Cook County in the work of charities and corrections.

It was also provided that:

"Any act of the general assembly that shall be passed after the going into effect of this charter relative to the government of the affairs of the cities of this State in general or of cities containing a stated number of inhabitants or over, or allowing the formation of new municipal corporations in any part of the State, shall, in the absence of an express declaration of a legislative intent to the con-

trary be construed as not applying to or operative within the city of Chicago.”

In addition to this, the charter contained provisions granting the city of Chicago full and exclusive power to pass ordinances relative to the observance of Sunday, notwithstanding any general laws of the State. For a generation the Sunday closing law had been a dead letter in Chicago, and this clause was designed to permit the city to provide for such legal regulation as it might see fit.

The charter also provided that the city council might amend any section of the charter, excepting the provisions on taxation and public utilities, and such other sections as contained express prohibitions or restraints on the power of the city. The section read as follows:

“5 4. Wherever this charter makes any provisions or regulations with regard to a matter, the regulation of which the legislature has power to delegate to the city council, the city council may adopt an ordinance regulating such matter in whole or in part, and submit to the voters of the city, in the manner provided for the submission of propositions to popular vote, the question whether the provisions of the charter (which shall be designated in the ordinance by title, article, chapter, and section as the case may be) regulating such subject matter shall be discontinued and the ordinance adopted by the city council be substituted in their stead. If the voters of the city shall vote in favor of such discontinuance and substitution, the provisions of the charter so designated shall from thenceforth be inoperative within the city, and the ordinance so adopted shall take effect. No ordinance amending or repealing such ordinance or amending or repealing any ordinance that may subsequently be substituted for it, shall go into effect until such ordinance shall have been approved by a majority of the voters of the city voting upon the question.

“This section shall not apply to the provisions on taxation or to the article on public utilities, or to any provisions of this charter expressly prohibiting or restraining the exercise of particular powers by the city or any department or officer thereof.”

The third important feature of the charter was the provision respecting revenue. The lack of adequate funds to carry on properly the work of the municipality had been for many years one of the most serious drawbacks to the advancement of Chicago. The revenue of



all of the local governments, including the city's proportionate share of the revenue of the County and the Sanitary District, was only \$20 per capita as compared with \$29 for New York City, \$40 for Boston, and an average of \$26 for all American cities having a population of over 300,000.<sup>2</sup> Furthermore, the debt of the city of Chicago was proportionately far below that of any other great city in the world. Including the debts of the various local bodies and the city's proportionate share of the debt of the Sanitary District and the county, the total indebtedness was only about \$60,000,000, or \$30 per capita. The average debt of all American cities over 30,000 is \$58.48. In fact, the debt of the city corporate had scarcely been increased at all since 1870.

In order to overcome these very grave difficulties, the charter provided for an increase in the maximum tax rate of about two mills, or a city rate of 5 per cent to be levied on a valuation which is legally one-fifth of the assessed valuation. This would have made possible, on the basis of the valuation at that time, an increase of about \$6,000,000 a year. It was also provided that the debt of the city might be increased to 5 per cent of the assessed value of the property of the city, providing that the city assumed the debts of all the governing bodies consolidated with it and its proportionate share of the debt of Cook County and of the Sanitary District. The present limit is 5 per cent on the one-fifth valuation. This would have made possible an increase in bonded indebtedness of about \$40,000,000 and a total debt of about \$100,000,000. Authority was given to levy a tax to pay the interest on the debt incurred and to provide the necessary sinking fund. It was stipulated, however, that no issue of bonds could be made unless the proposition had been submitted to the people and approved by them. No opposition was made to these revenue features of the charter in the convention, although representative men of all classes were members of that body.

Along with these provisions, there were important changes in the special assessment law. The most significant of these was the requirement that the city should hereafter pay one-half of the expense of

<sup>2</sup> These facts were analyzed and discussed in the writer's report to the City Club on the Municipal Revenues of Chicago (1906).

repaving streets of the city once paved after the adoption of the charter. At present, practically nothing is contributed for this purpose. At the same time, the city was authorized to provide for a special tax upon all vehicles used upon the streets of the city, and the proceeds of this tax were to be devoted exclusively to a street repair fund. At present practically no appropriation is made for the repairing of streets. The city was furthermore authorized to exact compensation for the use of sidewalk space, and to license all trades, occupations, and businesses.

Other important changes made in the charter were the introduction of a direct primary law, a corrupt practices act, the elimination of the party circle from the ballot, the change in the date of electing municipal court judges from November, the date of general elections, to June, and the extension of civil service regulations to the employees of the municipal court. An effort was made to secure a provision for the nomination of candidates for elective office by petition only. This was strongly urged by Mr. Walter Fisher and others, but was finally defeated by a vote of 22 to 30. Although the party circle was removed from the ballot in accordance with the provision of the charter, the party column was retained. The subject of woman's suffrage was debated at length, but the extension of the ballot to women was finally defeated by a tie vote. Especial provision was made for tenement house regulation and control (ix, 16).

Some important changes were also made in the organization of the city government. The term of aldermen was extended from two years to four years in order to meet the change in the term of the mayor made in 1905. At the same time the salary of the aldermen was increased from \$1500 to \$3500. The city clerk was taken out of the list of elective officers, leaving the mayor and the city treasurer the only administrative officers to be chosen by popular vote.

The public utility sections of the charter were of great importance. The city was authorized to own and operate any public utility including "street and other intramural railways, subways and tunnels, telephone and telegraph, gas and electric light, heating, refrigerating and power plants," and to fix the rate and charges for the service rendered by means of such utilities; to require publicity regarding the business of public service corporations; and to acquire, by purchase, condem-

nation, construction, or otherwise, whatever property, real or personal, might be necessary or appropriate. The provisions of the Mueller law authorizing the issue of special certificates constituting an obligation against only the property acquired by the city, were by this section extended to all local public utilities. In addition to this, an optional referendum, in case of all franchise grants for a longer period than five years, was provided. If, within sixty days after passing of any such ordinance, a petition signed by 10 per cent of the registered voters of the city was presented, then the ordinance should not go into effect until it had first been submitted to popular vote, and had been approved by a majority of those voting on it.

The public school system was made a department of the city government, instead of a half-independent body. The number of members of the board of education was reduced from twenty-one to fifteen, appointed by the mayor for a term of three years. The board was required to appoint a superintendent of education, a business manager, and a secretary for terms of not more than four years; and these officers were made removable for cause by a majority vote of the board. The superintendent was given general supervision, subject to the board, of the courses of study, text books, educational apparatus, and discipline and conduct of the schools. Appointments, promotions and transfers of teachers, and introduction of text books and apparatus, might be made only upon the recommendation of the superintendent, except by a two-thirds vote of the board. The business manager was given general care and supervision of the property and routine business of the department, but was subject to the general direction of the board. Under the business manager were the chief architect, in charge of a bureau of buildings and construction, and a chief engineer in charge of matters relating to heating, ventilation and sanitation of buildings.

Appropriations for educational purposes were to be made by the city council on the request of the board of education, as in the case of parks and library.

Finally, the board was given a grant of authority to exercise all powers that might be requisite or appropriate for the maintenance and fullest development of an efficient school system, and the powers not specially enumerated were not to be considered excluded, as would ordinarily be the case (section 26).

Other less vital features were the authorization of the council to investigate any department of the city government, the official acts and conduct of any city officer or employee, and the negotiation, terms and performance of any public contract, and the accompanying power to compel the attendance and testimony of witnesses and the production of relevant books and documents (art. vi, 9). The anti-pass section forbade any municipal officer or employee to ask or accept any "free pass, frank, gratuity, gratuitous service or discrimination from any person or corporation holding or using any franchise, privilege, or special license granted by the city, or from any public service corporation whatever" (art. vi, 7). Another clause provided that "the city might maintain an action to restrain by injunction a violation of any of its ordinances, even though the ordinance provided a penalty for violation" (ix, 19).

These were the most important provisions in the charter as it was prepared by the convention, and presented to the legislature in March, 1907. In the meantime, however, a fierce battle had been begun over the choice of a mayor of the city of Chicago. Little or nothing was done with the charter until after the April election, when a republican mayor was chosen for the first time in fourteen years. The consideration of the charter was then begun by the State legislature, and occupied its attention during much of the remaining part of the session. The strongest opposition to the charter in Springfield centered around the home rule features of the document. It was declared that these provisions were equivalent to an ordinance of secession, and that Chicago was endeavoring to separate herself from the rest of the State. A strong effort was made to secure the passage of a constitutional amendment providing that the representation of Chicago in the new legislature should never exceed one-third of the total number, regardless of the population of the city. This was defeated by reason of inability to secure the necessary two-thirds vote to initiate the amendment. An attempt was also made to limit the city to a series of enumerated powers, particularly specified. In the end, however, the home rule sections of the charter were passed substantially as presented to the legislature by the convention except that the power to regulate the observance of Sunday was omitted. The revenue features of the charter were also left practically undisturbed, except that

the charter provision authorizing the city to exact compensation for subsidewalk space was eliminated from the bill.

While these broad powers were granted to the city and while ample revenues were allowed, many other progressive features of the charter were badly butchered by the legislature. The charter provision for a direct primary law was entirely eliminated and an antiquated act inserted in its place. The provision for publicity in regard to campaign receipts and expenditures was stricken out. The party circle was restored to the ballot without much discussion. The provisions for extending the civil service to the employees of the municipal courts were quietly disposed of, and the change of the date of the election of municipal court judges was also consigned to oblivion. This was not all, however, for the number of wards in the city was changed from thirty-five, the present figure, to fifty, and the city was gerrymandered in a wholly unjustifiable way. For years the city council has been practically evenly divided between republicans and democrats, but, under the proposed apportionment, the council would stand at 32 republicans to 18 democrats. Furthermore, the apportionment was drawn distinctly in the interest of certain factions of political parties; and finally it was provided that the lines so drawn should not be altered until after the census of 1920.

The civil service provisions of the charter were also altered by the legislature. Heads of departments were given authority to discharge employees for cause and the present right of trial of municipal employees under such circumstances was taken away. It was provided that the civil service commission might, in its discretion, require a trial; but this was placed entirely in their option. A number of other minor changes were made by the legislature none of which was vital in its nature, but the total of which produced an unfavorable impression. For example, the "anti-pass" section was restricted by the provision that the persons or corporations concerned must be those "whose business is confined to the city of Chicago." One of the revenue sections was carefully trimmed by omitting the italicized words in the following clause:

"12 3. The city council shall have power to impose an occupation or license tax upon any trade, occupation or business carried on wholly or in part within the city limits, *and upon all persons, firms or*

*corporations holding or using franchises or privileges wholly or in part within the city."*

To the educational section was added the requirement that "Text books shall not be changed oftener than once in four years" —a clause that had been negated by the charter convention after a sharp debate. The section authorizing tenement house regulation was badly mutilated.

Had the charter been passed by the legislature as it came from the charter convention, there is little doubt that it would have been approved by the people without much opposition. But the series of compromises laboriously negotiated in the convention with a view to pacifying all parties and all factions was broken down, and what had been harmony was transformed into violent discord. The fate of the charter did not long remain in doubt. Early in the summer the democratic organization declared against it, which, as Chicago is normally democratic on local questions, was alone sufficient to guarantee its defeat. The republican organization declared for the charter and undertook a campaign in its favor. But a large element of the republican organization had been unfairly treated in the ward apportionment, and was never more than lukewarm in its activity. Among the independent voters, widespread distrust was created by the action of the legislature in eliminating the direct primary law and the corrupt practices act, in striking out the provisions regarding the party circle and the election of municipal court judges; and in inserting a ward gerrymander in a home rule charter. The United Societies, an organization comprising about 500 societies, and representing about 90,000 voters, was greatly incensed at the failure of the legislature to enact the charter provisions regarding the regulations of Sunday observance, and was very energetic in the campaign against the charter. The intimation of the mayor to the United Societies that the saloons might be closed on Sunday unless opposition to the charter ceased, had the inevitable effect of arousing their enthusiasm to a still greater degree.<sup>3</sup>

The Federation of Labor also denounced the charter, for the reason

<sup>3</sup> The United Societies of Chicago consists of a membership of about 490 societies. "They include the Belgian-American Club, the Bohemian Benevolent Association, sixty lodges of the First Bohemian Catholic Society, the Concordia Mannerchor, the Chicago Turn-Gemeinde, the Croatian Liberty Society, the Germania Club of Chicago,

that "the charter is a poorer and weaker instrument than that which the charter convention framed. All real reform and improvement seems to be purposely excluded."<sup>4</sup> They also objected to the four years' terms for aldermen, to the removal of the city clerk from the list of elective officers, to the increased power of the mayor, to the discrimination against workingmen's wards in the new apportionment, and to any increase in taxation unless the system of taxation were fundamentally changed.

The Federation of Teachers opposed the charter because of the provisions regarding the school system. The Woman's Suffrage Association attacked it because of the failure to grant the right of voting in municipal elections to women. The South Park board, which enjoys the lion's share of the revenue for park purposes, since the valuable property of the business district of the city lies within its borders, was also energetic in its opposition to the consolidation features of the charter. The cry of increased taxation and debt was raised, and used by all who for any reason opposed the adoption of the charter, and especially by those who during the Convention, opposed any limit on the local tax rate. An exceptional increase in the assessed valuation of property during the summer of 1907 made the objection more vehement.

Against all of these forces there remained only the republican organization, or rather one faction of the organization. The inevitable result, long foreseen by those familiar with the situation, was the decisive defeat of the charter. The vote was 59,786 for, and 121,935 against, while the registration was 361,968.

the First Hungarian Social and Sick Benevolent Association, the Krieger-Verein (Town of Lake), the Kreiger-Verein (South Chicago), the King Sobieski Society, the Luxemburger Philharmonic, the Luxemburger Sangerbund, the Militair-Verein, the Nord Chicago Mannerchor, the Plattdeutsche Gilde (46 sections), the Pulaski Cavalry, the Roos Society, the Sant-Aldessandro Sokol Polski (Town of Lake), the United Swiss Organizations of Chicago, the United Croatian Societies (40 lodges), the Walhalla Society—in all 490 societies, representing over 90,000 voters of Chicago."

<sup>4</sup> At the close of the convention, Mr. Linehan, one of the leading labor members, had voted for the completed charter, and said, "If the members will organize, I will take pleasure in proposing them as delegates to the Federation of Labor."